



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

**Foxborough Zoning Board of Appeals Minutes
February 20, 2014**

Members present: Chairman Neil Forster, Members Barney Ovrut and Kim Mellen, Alternate Member Kevin Penders

Chairman Forster opened the meeting at 7:00 p.m. in the Media Center of the Foxboro High School, 120 South Street.

7:00 p.m. Ryan Burke requests a variance from Foxborough Zoning By-Laws, Section 4.1.1 - Dimensional Requirements to allow an attached garage addition to be constructed within the required side yard setback where 15 feet is required and 5 feet will be provided. The property, located at 11 Brookside Drive, is in the R-40 Residential Zoning District and Water Resource Protection Overlay District. Mr. Burke was present and represented himself. He moved into his home in 2011 and was told by the realtor at the time that a garage could be added to the home as the setback was only five feet but he later found out that the actual setback is fifteen feet.

He would like to add a two car garage with a room above to his home. It would be 21 x 26 feet, 560 square feet. He would like to have a family room above the garage that will not have any plumbing. He will follow the contours of the original home but he does not have any drawings of what it would look like with him this evening. He needs a two car garage as they have two vehicles in the family.

A single car garage would still be ten or eleven feet into the setback. There are trees on the other side of the home and a small addition containing the master bedroom has already been built on that side by previous owners. The addition is twenty feet from the side yard setback on that side.

His street slopes downward, his is the second lowest home on the street. It was initially in the FEMA floodplain but he had the house surveyed and removed from the floodplain.

In order to grant a Variance there needs to be issues with the soil, shape or topography of the lot.

There were no abutters present.

Mr. Burke did note that he has a retaining wall in the rear of the property to level the backyard.

A motion to close the Public Hearing was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

The Board members feel that the applicant has not demonstrated a hardship for a Variance to be granted. A single car garage is not an option as it would still be in the setback.

Building Commissioner Bill Casbarra suggested the garage be moved to the addition side as they would already be in the front setback as a pre-existing condition.

The applicant asked for a continuance so he can explore where else on the property the garage could be located.

7:10 pm. Douglas A. King, Inc. requests a variance from Foxborough Zoning By-Laws, Dimensional Requirements Table 9-1 and Section 9.6.7 Note 12 to allow the construction of a 15 unit and a 4 unit multi-family housing on Lot FE-3D with zero feet of frontage where 200 feet is required, zero feet of lot width where 67 feet is required, and 57,902 square feet of area where 130,250 square feet of area is required, and to allow the construction of 1-duplex attached single family, 6-three unit attached single family, 1-four unit attached single family, and 1-six unit multi-family housing on Lot FE-3G with 31 feet of frontage where 200 feet is required and 30 feet of lot width where 67 feet is required, and any other applicable variance(s), special permit(s), or finding(s) required to construct said housings on said lots. The properties, located at 28 Chestnut Street, 40 and 50 Capone Road are located in an R-15 Residential Zoning District and the Chestnut-Payson Overlay District. Mr. King was present and represented by Atty. Frank Spillane and Engineer Bill Buckley of Bay Colony. This application is for lots located on the former State Hospital land. This would be the final phase of the "Main Campus" on the location of the main buildings of the hospital.

Atty. Spillane explained that a Re-Use Plan for the site was approved in 2002 for a total of 203 units, they are not asking to change the total number of units that can be built. This land is part of the Chestnut Payson Overlay District, CPOD, but not all of the development is in the overlay district. North Street and Payson Road are outside of the district. The overlay district included a total of 152 units, these are the last 45 units to be built as part of that plan.

They also have an application for a Special Permit in with the Planning Board. The Planning Board will decide the specifics on the units to be built. The banks are looking for conforming lots to provide financing.

The land was originally bought by Vince O'Neil and the permits were granted to his company. The original permit included offices, apartments and townhouses. Mr. O'Neil lost the rights due to financial difficulty and Mr. King bought the rights and has been working with the Planning Board on completing the project. These lots need to be separated from the rest of the O'Neil property as a requirement of the financing; therefore Variances are being requested.

On one lot, a Variance is needed for the multi-family units as 200 feet of frontage is needed and they only have 30 feet on the access way; a Variance is also needed for lot width. The second lot has no frontage on a Public Way as Dexter and Capone Roads are Private Ways so Variances are needed for frontage, width and area.

New buildings will be constructed to replace the existing former power plant, garage and chapel. The Building Commissioner has determined that those buildings are too far deteriorated for redevelopment.

The original plan for the site included payments to the Planning Board for the redevelopment of the nearby fields and money was to be contributed to the Affordable Housing Trust. Due to the economy those payments were never received but Mr. King has been working with the Planning Board on getting those payments submitted.

The Planning Board did not submit a letter in support of this project, but Planning Board Chairman Kevin Weinfeld was present and did indicate his verbal support. He will have a letter prepared and sent to the Board for the administrative record.

Mr. King noted that he has been working on redevelopment of this land for the past six or seven years. He will be proposing handicap veterans housing as part of this proposal and feels this is better than the original plan and will be a win/win for the town.

Mr. Weinfeld stated that this has been a long and complex development plan. They were originally dealing with three developers and are now down to one. He feels that Mr. King has stepped up to help the progress of the development. The plan is essentially the same as the original approved plan.

Mr. Casbarra also spoke in favor of the application as this will replace the existing buildings that are in decay and are a public safety issue.

A motion to close the Public Hearing was made by Ms. Mellen and seconded by Mr. Ovrut. The motion carried 3-0-0.

Mr. Ovrut is in favor of the application. The unusual shape of the lots justify the need for Variances. The regulations for the overlay district also call for innovation in development and this application satisfies that requirement.

Ms. Mellen and Mr. Penders were also in favor of the application.

A motion to grant the requested Variances to permit multi-family housing on lot FE-3D and FE-3G conditional upon Planning Board approval of a Special Permit was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

A motion to allow up to nineteen multi-family units within two buildings on lot FE-3D with zero feet of frontage where 200 feet are required and zero feet of lot width where 67 feet is required and with 57,902 square feet of area where 130,250 feet is required was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

A motion to allow 1 duplex attached single-family, 6 three-unit attached single family, 1 four-unit attached single family and 1 six-unit multi-family on lot FE-3G with 31 feet of frontage where 200 feet is required and 30 feet of lot width where 67 feet is required was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

GENERAL BUSINESS

The Board reviewed the minutes of December 19, 2013.

A motion to approve the minutes of December 19, 2013 as amended was made by Ms. Mellen and seconded by Mr. Ovrut. The motion carried 4-0-0.

There is an article on the Town Meeting Warrant to update Section 5.4 of the Bylaws in regards to nonconforming Single and Two Family residential structures. This will address reconstruction on non-conforming lots by clarifying the requirements. A Finding will be required by the Board that the reconstruction is not substantially more detrimental to the neighborhood before a Special Permit can be granted by the Board.

Mr. Ovrut also updated the Board on the progress of the Sign Bylaw Study Committee. They are close to finalizing a draft and are on their third revision. They will be creating three districts,

Route 1, Downtown, and the rest of town. Definitions have been added and there will be no Variances allowed. This will need to be approved at Town Meeting.

The Board questioned if repetitive petitions will be allowed.

The meeting was adjourned at 8:15 p.m.

Respectfully Submitted,

Diana Gray